



# Senate

General Assembly

**File No. 600**

January Session, 2013

Substitute Senate Bill No. 761

*Senate, April 24, 2013*

The Committee on Government Administration and Elections reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT MAKING THE JANITORIAL WORK PILOT PROGRAM FOR PERSONS WITH A DISABILITY OR A DISADVANTAGE PERMANENT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4a-82 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) For the purposes of this section:

4 (1) "Person with a disability" means any individual with a disability,  
5 excluding blindness, as such term is applied by the Department of  
6 Mental Health and Addiction Services, the Department of  
7 Developmental Services, the Department of Rehabilitation Services or  
8 the Veterans' Administration and who is certified by the Department  
9 of Rehabilitation Services as qualified to participate in a qualified  
10 partnership, as described in subsections [(f) to (m)] (e) to (l), inclusive,  
11 of this section;

12 (2) "Vocational rehabilitation service" means any goods and services

13 necessary to render a person with a disability employable, in  
14 accordance with Title I of the Rehabilitation Act of 1973, 29 USC 701 et  
15 seq., as amended from time to time;

16 (3) "Community rehabilitation program" means any entity or  
17 individual that provides directly for or facilitates the provision of  
18 vocational rehabilitation services to, or provides services in connection  
19 with, the recruiting, hiring or managing of the employment of persons  
20 with disabilities based on an individualized plan and budget for each  
21 worker with a disability;

22 (4) "Commercial janitorial contractor" means any for-profit  
23 proprietorship, partnership, joint venture, corporation, limited liability  
24 company, trust, association or other privately owned entity that  
25 employs persons to perform janitorial work, and that enters into  
26 contracts to provide janitorial services;

27 (5) "Janitorial work" means work performed in connection with the  
28 care or maintenance of buildings, including, but not limited to, work  
29 customarily performed by cleaners, porters, janitors and  
30 handypersons;

31 (6) "Janitorial contract" means a contract or subcontract to perform  
32 janitorial work for a department or agency of the state; [and]

33 (7) "Person with a disadvantage" means any individual who is  
34 determined by the Labor Department, or its designee, to be eligible for  
35 employment services in accordance with the Workforce Investment  
36 Act or whose verified individual gross annual income during the  
37 previous calendar year was not greater than two hundred per cent of  
38 the federal poverty level for a family of four; [.] and

39 (8) "Awarding authority" means the Commissioner of  
40 Administrative Services, Chief Court Administrator of the Judicial  
41 Branch and President of the Board of Regents for Higher Education, as  
42 applicable.

43 (b) The Commissioner of Administrative Services shall establish a

44 [pilot] program [, for a term of seven years,] to create and expand  
45 janitorial work job opportunities for persons with a disability and  
46 persons with a disadvantage. [Such pilot program shall consist of four  
47 identified projects for janitorial work.] The program shall create [a  
48 minimum of sixty] full-time jobs or [sixty] full-time equivalents at  
49 standard [wages] wage rates for persons with disabilities and persons  
50 with disadvantages. [and have a total market value for all janitorial  
51 contracts awarded under the program of at least three million dollars.  
52 In establishing such pilot program, the Commissioner of  
53 Administrative Services may consult with the Commissioner of Social  
54 Services, the Commissioner of Rehabilitation Services and the Labor  
55 Commissioner.] The Judicial Branch and Board of Regents for Higher  
56 Education may participate in such program. The commissioner may  
57 create a task force to study the expansion of such program beyond  
58 janitorial services.

59 (c) Notwithstanding any other provision of the general statutes,  
60 under such [pilot] program, the [Commissioner of Administrative  
61 Services shall] awarding authority may award [four] janitorial  
62 contracts [, one for each identified project,] pursuant to the following  
63 procedures: (1) Upon receipt of a request for janitorial services by an  
64 agency or department of the state, the [Commissioner of  
65 Administrative Services] awarding authority shall notify each  
66 qualified partnership, as described in subsections [(f) to (m)] (e) to (l),  
67 inclusive, of this section, of such request and invite each qualified  
68 partnership in good standing to submit a bid proposal for such  
69 janitorial contract to the [commissioner] awarding authority in a  
70 manner and form as prescribed by the [commissioner] awarding  
71 authority; (2) in the event that only one such qualified partnership  
72 submits a bid or proposal for such janitorial contract, the  
73 [commissioner] awarding authority shall award such contract to [the  
74 bidding] such qualified partnership, provided such bid or proposal  
75 does not exceed the fair market value for such contract, as determined  
76 by the [commissioner] awarding authority; (3) if more than one  
77 qualified partnership submits a bid or proposal, the [commissioner]  
78 awarding authority shall award the contract to the lowest responsible

79 qualified bidder or most advantageous proposer, as [defined]  
80 described in section 4a-59; and (4) in the event that a qualified  
81 partnership does not submit a bid or proposal or is not awarded such  
82 contract, the [commissioner] awarding authority shall award such  
83 contract in accordance with the provisions of sections 4a-59 and 17b-  
84 656, as amended by this act, or title 51, as applicable. No awarding  
85 authority shall award a contract under the provisions of this  
86 subsection at a site where employees are employed pursuant to an  
87 existing collective bargaining agreement or where a contract has been  
88 awarded pursuant to section 17b-656, as amended by this act, unless a  
89 contract has been previously awarded to a qualified partnership  
90 pursuant to this section at such site.

91 (d) Notwithstanding any other provision of the general statutes, the  
92 responsibilities of the Commissioner of Administrative Services, Chief  
93 Court Administrator or President of the Board of Regents for Higher  
94 Education as established in subsections (b) and (c) of this section, may  
95 not be delegated to an outside vendor.

96 [(e) The Commissioner of Administrative Services may adopt  
97 regulations, in accordance with the provisions of chapter 54, to  
98 undertake the requirements established in subsections (b) to (e),  
99 inclusive, of this section.]

100 [(f)] (e) The Connecticut Community Providers Association shall  
101 designate a commercial janitorial contractor and a community  
102 rehabilitation program as a "qualified partnership" whenever the  
103 following criteria have been established: (1) Such commercial janitorial  
104 contractor has entered into a binding agreement with such community  
105 rehabilitation program in which such contractor agrees to fill not less  
106 than one-third of the jobs from a successful bid for a janitorial contract  
107 under the [pilot] program established in subsections (b) to [(e)] (d),  
108 inclusive, of this section with persons with disabilities and not less  
109 than one-third of such jobs with persons with a disadvantage; (2) such  
110 contractor employs not less than two hundred persons who perform  
111 janitorial work in the state; and (3) such contractor certifies, in writing,

112 that it will pay the standard wage to employees, including persons  
113 with disabilities, under such janitorial contract. Any partnership  
114 between a commercial janitorial contractor and a community  
115 rehabilitation program that has been denied designation as a qualified  
116 partnership may appeal such denial, in writing, to the Commissioner  
117 of Administrative Services and said commissioner may, after review of  
118 such appeal, designate such program as a qualified partnership.

119     ~~[(g)]~~ (f) The requirement established in subsection ~~[(f)]~~ (e) of this  
120 section to fill not less than one-third of the jobs from a successful bid  
121 for a janitorial contract with persons with disabilities and one-third  
122 with persons with a disadvantage shall be met whenever such  
123 janitorial contractor employs the requisite number of persons with  
124 disabilities and persons with a disadvantage throughout the entirety of  
125 its operations in the state provided any persons with disabilities  
126 employed by such janitorial contractor prior to the commencement  
127 date of any such contract shall not be counted for the purpose of  
128 determining the number of persons with disabilities employed by such  
129 janitorial contractor.

130     ~~[(h)]~~ (g) The number of persons with disabilities and the number of  
131 persons with a disadvantage that such janitorial contractor is required  
132 to employ pursuant to the provisions of subsection ~~[(f)]~~ (e) of this  
133 section shall be employed not later than six months after the  
134 commencement of janitorial work under the terms of any contract  
135 awarded pursuant to the provisions of subsections (b) to ~~[(e)]~~ (d),  
136 inclusive, of this section, provided such contractor shall fill any  
137 vacancy for janitorial work that arises during the first six months of  
138 any such contract with persons with disabilities and persons with  
139 disadvantages.

140     ~~[(i)]~~ (h) The Connecticut Community Providers Association shall  
141 develop an application process and submit a list of employees who  
142 have applied to participate in a partnership to the Department of  
143 Rehabilitation Services for certification. Such association shall maintain  
144 a list of certified employees who are persons with disabilities and

145 community rehabilitation programs.

146       [(j)] (i) Any qualified partnership awarded a janitorial contract  
147 pursuant to the provisions of subsections (b) to [(e)] (d), inclusive, of  
148 this section shall provide to the Connecticut Community Providers  
149 Association, not later than six months after the commencement date of  
150 such contract and annually thereafter, a list of the persons with  
151 disabilities and persons with a disadvantage employed by such  
152 contractor that includes the date of hire and employment location for  
153 each such person. Such association shall certify annually to the  
154 Department of Administrative Services, the Judicial Branch or the  
155 Board of Regents for Higher Education, as applicable, in such manner  
156 and form as prescribed by the Commissioner of Administrative  
157 Services, Chief Court Administrator or the President of the Board of  
158 Regents for Higher Education, that the requisite number of persons  
159 with disabilities for such contract continue to be employed by such  
160 contractor in positions equivalent to those created under such janitorial  
161 contract and have been integrated into the general workforce of such  
162 contractor.

163       [(k)] (j) Notwithstanding any other provision of the general statutes,  
164 the responsibilities of the Department of Rehabilitation Services, as  
165 established in subsections [(f) to (m)] (e) to (l), inclusive, of this section,  
166 may not be delegated to an outside vendor.

167       [(l)] (k) The Commissioner of Rehabilitation Services may adopt  
168 regulations, in accordance with the provisions of chapter 54, to  
169 undertake the certification requirements established pursuant to  
170 subsections [(f) to (m)] (e) to (l), inclusive, of this section.

171       [(m)] (l) Notwithstanding the provisions of subsection [(f)] (e) of this  
172 section, the Commissioner of Administrative Services shall authorize  
173 certified small and minority businesses to participate in such [pilot]  
174 program.

175       [(n)] (m) [During the term of the pilot program described in  
176 subsections (b) to (e), inclusive, of this section, the] The joint standing

177 committee of the General Assembly having cognizance of matters  
178 relating to government administration shall study the effectiveness of  
179 such [pilot] program, including, but not limited to, the effectiveness of  
180 such program to create integrated work settings for persons with  
181 disabilities. Additionally, said committee shall study [the need to make  
182 such pilot program permanent and] ways to provide incentives for  
183 municipalities and businesses to utilize such [pilot] program if such  
184 program is determined by the committee to be effective.

185 [(o)] (n) [During the term of the pilot program described in  
186 subsections (b) to (e), inclusive, of this section, any exclusive contract  
187 awarded pursuant to section 17b-656 shall remain in effect with no  
188 changes in the formula for fair market value.] Each exclusive contract  
189 awarded prior to October 1, 2013, pursuant to section 17b-656, as  
190 amended by this act, shall remain in effect until such time as either  
191 party terminates the contract in such party's own best interest, with not  
192 less than sixty days written notice. Each such contract may be  
193 amended to include updated terms and conditions, but shall not allow  
194 for any price increases except statutory or mandated increases to the  
195 minimum wage and standard wage. If either party exercises his or her  
196 right to terminate any such contract, the next contract solicitation may  
197 be awarded pursuant to this section or sections 4a-59 and 17b-656, as  
198 amended by this act. Additionally, any new janitorial contract  
199 awarded pursuant to section 17b-656, as amended by this act, shall be  
200 limited to not more than four full-time employees per contract.

201 [(p)] (o) Any person employed under a janitorial contract let: (1) On  
202 or before October 1, 2006, or thereafter if such contract constitutes a  
203 successor contract to such janitorial contract let on or before October 1,  
204 2006, and (2) pursuant to section 4a-57, as amended by this act, or 10a-  
205 151b or by the judicial or legislative departments or pursuant to  
206 subsections (b) to [(e)] (d), inclusive, of this section shall have the same  
207 rights conferred upon an employee by section 31-57g for the duration  
208 of the [pilot] program described in subsections (b) to [(e)] (d),  
209 inclusive, of this section. The provisions of this subsection shall not  
210 apply to any new janitorial contract with not more than four full-time

211 employees per contract, as described in subsection [(o)] (n) of this  
212 section.

213 (p) If a position is not available at a job site for a janitorial contract  
214 awarded pursuant to subsection (c) of this section and a person with a  
215 disability or a person with a disadvantage is placed at an alternate job  
216 site in the operations of the janitorial contractor pursuant to subsection  
217 (f) of this section, such person with a disability or person with a  
218 disadvantage shall be paid the wage applicable at such alternate site,  
219 provided that when a position at the job site for a janitorial contract  
220 awarded pursuant to subsection (c) of this section becomes available,  
221 such person with a disability or person with a disadvantage shall be  
222 transferred to the job site for a janitorial contract awarded pursuant to  
223 subsection (c) of this section and shall be paid the applicable standard  
224 wage for such site.

225 (q) If a person with a disability or a person with a disadvantage is  
226 transferred pursuant to subsection (p) of this section and such person  
227 subsequently leaves such position, the position shall be filled with  
228 another person with a disability or person with a disadvantage, unless  
229 such action would violate the collective bargaining rights of another  
230 employee of the janitorial contractor who is not a person with a  
231 disability or person with a disadvantage.

232 Sec. 2. Subsection (f) of section 4a-57 of the general statutes is  
233 repealed and the following is substituted in lieu thereof (*Effective*  
234 *October 1, 2013*):

235 (f) Nothing in this section shall be construed to apply to the award  
236 of janitorial contracts pursuant to the provisions of subsections (b) to  
237 [(e)] (d), inclusive, of section 4a-82, as amended by this act.

238 Sec. 3. Subsection (n) of section 4a-60g of the general statutes is  
239 repealed and the following is substituted in lieu thereof (*Effective*  
240 *October 1, 2013*):

241 (n) Nothing in this section shall be construed to apply to the four



242 janitorial contracts awarded pursuant to subsections (b) to [(e)] (d),  
243 inclusive, of section 4a-82, as amended by this act.

244 Sec. 4. Section 17b-656 of the general statutes is repealed and the  
245 following is substituted in lieu thereof (*Effective October 1, 2013*):

246 Whenever any products made or manufactured by or services  
247 provided by persons with disabilities through community  
248 rehabilitation programs described in subsection (b) of section 17b-655  
249 or in any workshop established, operated or funded by nonprofit and  
250 nonsectarian organizations for the purpose of providing persons with  
251 disabilities training and employment suited to their abilities meet the  
252 requirements of any department, institution or agency supported in  
253 whole or in part by the state as to quantity, quality and price such  
254 products shall have preference over products or services from other  
255 providers, except (1) articles produced or manufactured by  
256 Department of Correction industries as provided in section 18-88, (2)  
257 emergency purchases made under section 4-98, and (3) janitorial  
258 services provided by a qualified partnership, pursuant to the  
259 provisions of subsections (b) to [(e)] (d), inclusive, of section 4a-82, as  
260 amended by this act. All departments, institutions and agencies  
261 supported in whole or in part by the state shall purchase such articles  
262 made or manufactured and services provided by persons with  
263 disabilities from the Department of Rehabilitation Services. Any  
264 political subdivision of the state may purchase such articles and  
265 services through the Department of Rehabilitation Services. A list  
266 describing styles, designs, sizes and varieties of all such articles made  
267 by persons with disabilities and describing all available services  
268 provided by such persons shall be prepared by the Connecticut  
269 Community Providers Association.

270 Sec. 5. Subsection (h) of section 31-57f of the general statutes is  
271 repealed and the following is substituted in lieu thereof (*Effective*  
272 *October 1, 2013*):

273 (h) Where a required employer is awarded a contract to perform  
274 services that are substantially the same as services that have been

275 rendered under a predecessor contract, such required employer shall  
 276 retain, for a period of ninety days, all employees who had been  
 277 employed by the predecessor to perform services under such  
 278 predecessor contract, except that the successor contract need not retain  
 279 employees who worked less than fifteen hours per week or who had  
 280 been employed at the site for less than sixty days. During such ninety-  
 281 day period, the successor contract shall not discharge without just  
 282 cause an employee retained pursuant to this subsection. If the  
 283 performance of an employee retained pursuant to this subsection or  
 284 section 4a-82, as amended by this act, is satisfactory during the ninety-  
 285 day period, the successor contractor shall offer the employee  
 286 continued employment for the duration of the successor contract  
 287 under the terms and conditions established by the successor  
 288 contractor, or as required by law. The provisions of this subsection  
 289 shall not apply to any contract covered by section 31-57g or  
 290 subsections [(o) and (p)] (n) and (o) of section 4a-82, as amended by  
 291 this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	4a-82
Sec. 2	October 1, 2013	4a-57(f)
Sec. 3	October 1, 2013	4a-60g(n)
Sec. 4	October 1, 2013	17b-656
Sec. 5	October 1, 2013	31-57f(h)

**Statement of Legislative Commissioners:**

In section 1(e) "pilot" was bracketed for consistency.

**GAE**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill makes permanent the janitorial work pilot program for certain individuals and allows participation to the Board of Regents for Higher Education and the Judicial Branch. These provisions are not anticipated to result in a fiscal impact to the state as contracts awarded under the program cannot exceed the fair market value for such contracts and existing contracts over \$50,000 are subject to the standard wage law.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sSB 761*****AN ACT MAKING THE JANITORIAL WORK PILOT PROGRAM FOR PERSONS WITH A DISABILITY OR A DISADVANTAGE PERMANENT.*****SUMMARY:**

This bill makes permanent the janitorial work pilot program for people with a disability or a disadvantage, which was established in 2006 and is administered by the Department of Administrative Services (DAS). It allows (1) the Board of Regents for Higher Education (BOR) and the Judicial Branch to participate in the program and (2) DAS to create a task force to study extending it beyond janitorial services. The bill does not specify any membership requirements or deadlines for the task force.

The bill generally extends, with some modifications, the pilot program's existing requirements and establishes new ones. Additionally, it requires the Government Administration and Elections Committee to continue studying the program's effectiveness, but eliminates the requirement to study the need for making it permanent.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

**JANITORIAL WORK PROGRAM**

Under the janitorial work pilot program, the DAS commissioner awards contracts to qualified partnerships, which are commercial janitorial contractors and community rehabilitation programs, designated by the Connecticut Community Providers Association (CCPA), that meet certain criteria. The bill makes this program permanent and allows BOR and the Judicial Branch to participate. It

extends to the chief court administrator and BOR president a prohibition, currently applicable to the DAS commissioner, on delegating program-related responsibilities to an outside vendor. BOR governs the Connecticut State University System, regional community-technical colleges, and Charter Oak State College.

Under current law and the bill, the program must create and expand work opportunities, specifically full-time jobs or full-time equivalents at standard wage rates, for people with a disability and people with a disadvantage. The bill eliminates requirements that the program (1) consist of four janitorial work projects, (2) create at least 60 full-time jobs or equivalent, and (3) have a total market value of at least \$3 million. It also eliminates a provision authorizing DAS to adopt regulations concerning the program.

### ***Modifications to Existing Requirements***

Under current law, if more than one qualified partnership submits a bid, the contract must be awarded to the lowest responsible qualified bidder. The bill additionally allows an award to the most advantageous proposer, according to criteria specified in the request for proposals. It specifies that if no qualified partnership submits a bid, then the Judicial Branch must award the contract according to the branch's contracting laws.

Under current law, qualified partnerships awarded pilot contracts must provide CCPA with a list of their target employees (see BACKGROUND) no later than six months after the contract starts. CCPA must certify to DAS, in a manner and form the DAS commissioner prescribes, that the contractor continues to employ the required number of people with disabilities in positions equivalent to those created under the contract and has integrated them into the contractor's general workforce. The bill additionally requires that (1) qualified partnerships provide lists to CCPA on an annual basis after the initial provision of the list and (2) CCPA (a) provide DAS with the certification on an annual basis and (b) also provide it to BOR and the Judicial Branch.

Under current law, if DAS awards an exclusive contract during the pilot program's term under the state's preferential purchasing law for people with disabilities, including one for janitorial services, the contract must remain in effect with no change in the fair market value formula used by DAS for determining whether a vendor should be awarded the contract. The bill instead specifies that contracts awarded during the pilot program's term (which ends October 1, 2013) must remain in effect until terminated by either party, with at least 60 days' written notice. The contract can be amended to include updated terms and conditions, but cannot allow for price increases except for those mandated for minimum and standard wages. If the contract is terminated, the next one can be awarded either under standard contracting laws or the preferential purchasing law for people with disabilities.

### ***New Requirements***

The bill prohibits awarding authorities from awarding contracts at sites where employees are employed pursuant to a collective bargaining agreement or under the state's preferential purchasing law for people with disabilities, including those for janitorial services, unless a contract has previously been awarded to a qualified partnership under the pilot program.

The bill specifies that if a position is not available at a job site for a janitorial contract award and a person with a disability or disadvantage is placed at an alternate job site, then he or she must be paid the alternate site's wage rate. It requires that, when a position becomes available at the original job site, the person be transferred and paid the standard wage rate at the original site. The bill further specifies that if a person who is transferred subsequently leaves the position, then it must be filled by another person with a disability or disadvantage, unless it would violate another janitorial contractor employee's collective bargaining rights.

## **BACKGROUND**

### ***Pilot Program***

The pilot program consists of four janitorial work projects in state agencies that together must (1) create at least 60 full-time jobs or the equivalent at standard wages for people with disabilities, except blindness, or a disadvantage and (2) have a total market value of at least \$3 million. To qualify for the latter category, an individual must either (1) have income up to 200% of the federal poverty level for a family of four or (2) be eligible for employment services under the federal Workforce Investment Act as the state Labor Department determines.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 14 Nay 0 (04/05/2013)